

BOARD BILL NO. 94 INTRODUCED BY:

ALDERMAN JOHN COLLINS-MUHAMMAD/ALDERMAN JOE VACCARO

1 An ordinance setting forth regulations for the use of surveillance technology by the City of St.
2 Louis; requiring surveillance technology usage rules, regulations and guidelines be
3 established and approved by the Board of Aldermen before any such surveillance technology
4 may be used and plans may be put into practice; and containing a severability clause and
5 emergency clause.

6 **WHEREAS**, surveillance technology is becoming an increasingly common, supportive, and
7 helpful mechanism for maintaining the public safety, peace, and welfare; and

8 **WHEREAS**, these technologies include various types and sizes of cameras, internet
9 surveillance programming, listening devices, phone monitoring systems and other
10 technologies; and

11 **WHEREAS**, a number of studies have shown that surveillance technologies are developing
12 faster than the laws to govern them, resulting in an imbalance between governance and the use
13 of these technologies and causing several cities across the country to enact new and/or revised
14 statutes to ensure the civil rights and liberties of their citizens while allowing lawful
15 surveillance as a viable safety option.

16
17 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

18 **SECTION ONE. Definitions.**

19 1. "City Entity" means any agency, department unit, commissions, or unit of the City of
20 St. Louis or any governmental unit operating within the City of St. Louis.

21 2. "Discrimination" means the disparate treatment or consideration of, or making a
22 distinction in favor or against a person based on the characteristics, real or perceived,
23 for which discriminatory treatment is prohibited under the laws and regulations of the

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1 United States, the State of Missouri, and the Charter and ordinances of the City of St.
2 Louis, which shall include the following characteristics; race, religion, national origin,
3 age, sex, sexual orientation, gender identity, pregnancy, familial status, disability,
4 veteran status, and genetic status.

5 3. “Disparate Impact” means an adverse effect that that is disproportionately experienced
6 by individuals having traits, characteristics, or status as to which discrimination is
7 prohibited under the Constitution or any laws of the United States, under the
8 constitution or any law of the state of Missouri, or under the Charter or any ordinance
9 of the City of St. Louis.

10 4. “Surveillance Data” means any information or data collected, captured, recorded,
11 retained, processed, intercepted, analyzed, or shared by surveillance technology.

12 5. “Surveillance Technology” shall mean any electronic or other device, system, vehicle
13 or software, that is capable of collecting, capturing, and recording and/or transmitting
14 information, or used for communicating information or sharing information captured
15 while-live, or used for the processing and analysis of information, whether audio,
16 video or still imagery, thermal imagery, genetic biometric data, or other data and
17 information regardless of format, that may be used for the purpose of monitoring
18 activities, behavior, or changing conditions in order to influence, manage, or protect
19 the safety and welfare of individuals or groups, or to aid in the prevention of criminal
20 activity or the investigation of suspected criminal activity, or the data therefrom used
21 or made available to any City Entity for use. Surveillance Technology includes hand
22 held video or audio equipment, except when used for restricted-access crime scene

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1 analysis, and predictive policing algorithms. “Surveillance Technology” does not
2 include the following unless they have been equipped with, or are modified to become
3 or include, a surveillance technology as defined herein:

4 a. Routine office hardware (such as televisions, computers, and printers) that
5 are in widespread public use and will not be used for any surveillance or
6 surveillance related functions;

7 b. Parking Ticket Devices (PTD);

8 c. Surveillance devices that cannot record or transmit audio or video or be
9 remotely accessed, such as image stabilizing binoculars, night vision
10 goggles, or similar imaging devices;

11 d. Municipal agency databases that do not and will not contain any data or
12 other information collected, captured, recorded, retained, processed,
13 intercepted, or analyzed by Surveillance Technology; and

14 e. Manually-operated technological devices that are not used primarily for
15 internal municipal entity communications and are not designed to
16 surreptitiously collect surveillance data, such as radios and email systems.

17 6. “Surveillance Technology Use” shall mean any physical or digital system, routine,
18 practice or process that uses Surveillance Technology. If a given tactic, such as
19 mobile cameras placed in alleys, is used repeatedly, the tactic as a whole shall be
20 considered a Surveillance Technology Use rather than individual instances of the
21 tactic.

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1 7. “Viewpoint-based” shall mean targeted at any community or group or their individual
2 members because of their exercise of rights protected under the First Amendment of
3 the United States Constitution.

4 **SECTION TWO. City of St. Louis Surveillance Technology Use Policy.**

5 A. Purpose. The purpose of this ordinance is to ensure that City Entities only use
6 surveillance technologies for the benefit of the public’s safety and welfare, and shall
7 implement affirmative measures to ensure such uses do not infringe upon the public’s or
8 individuals’ civil rights and liberties.

9 B. Promulgation of rules and regulations. The Director of Public Safety shall promulgate and
10 oversee the implementation of rules and regulations to govern City Entities’ uses of
11 Surveillance Technology as provided in this ordinance and consistent with applicable federal
12 and state laws and regulations, and the Revised Code of the City. Said rules and regulations
13 shall be referred to as the City of St. Louis Surveillance Technology Use Policy (the
14 “Policy”). The Policy shall ensure that City Entities’ use of Surveillance Technology is done
15 solely for the benefit of the public’s safety and welfare and will not result in discrimination or
16 a Disparate Impact, or infringe upon the public’s or individuals’ civil rights or liberties, and
17 comply with the Revised Code of the City of St. Louis and all applicable federal and state
18 laws and regulations.

19 C. Administration and oversight.

20 1. The Director of Public Safety shall be responsible for the administration and
21 implementation of the Policy, and shall monitor and oversee City Entities’ uses
22 of Surveillance Technology to ensure their compliance with the Revised Code

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1 of the City of St. Louis, and applicable federal and state laws and regulations.
2 2. If the Director of Public Safety determines that a City Entity's use of
3 Surveillance Technology is not in compliance with the Policy, or the
4 applicable Surveillance Technology Use plan, the Revised Code of the City of
5 St. Louis, applicable federal and state laws and regulations, or such use is
6 contrary to the spirit and intent of this ordinance he or she shall report the
7 violation to the Public Safety Committee of the Board of Aldermen, and may
8 direct City Entities to make changes to their uses of Surveillance Technology,
9 and may suspend or cease such uses immediately upon notice.

10 **SECTION FOUR. Policy Development and Approval.**

11 A. Policy development and submission. Within one-hundred and twenty (120) days of the
12 effective date of this ordinance the Director of Public Safety shall submit to the Clerk of the
13 Board of Aldermen and Chairman of the Public Safety Committee a proposal for the Policy
14 rules and regulations to govern City Entities' use of Surveillance Technology.

15 B. Public hearing. Within sixty (60) days after receiving the Director of Public Safety's
16 proposal for the Policy the Board of Aldermen Public Safety Committee shall hold a hearing or
17 series of hearings to receive public input on the proposal. Notice of the initial hearing shall be
18 published in the City Journal no less than thirty (30) days prior to the date of the hearing, and
19 notice of subsequent hearings on the matter shall be made in accordance with the Revised Code
20 of the City of St. Louis, and applicable state laws and regulations.

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1 C. Publication of Policy proposal. Upon published notice for the public hearing(s), the Board of
2 Aldermen shall make the complete and unredacted Policy proposal publicly available on its
3 website.

4 D. Board of Aldermen approval. Following the aforementioned hearing(s) the Public Safety
5 Committee shall recommend to the Board of Aldermen that the proposed Policy be approved
6 or disapproved by the Board. The Board of Aldermen's recommendation for approval or
7 disapproval shall be made by resolution. If the Board does not approve the proposal, the
8 Public Safety Director shall have ten (10) days to submit a new Policy to the Board for its
9 approval or rejection.

10 E. Publication of approved Policy. After approval of the Policy by the Board of Aldermen
11 the complete and unredacted Policy shall be published in its entirety on the Department of
12 Public Safety websites and copies shall be made available to the public at the Department of
13 Public Safety within five (5) business days or its approval, and updated copies of the Policy shall
14 be similarly posted and made available to the public within five (5) business days or any change
15 or modification to the Policy.

16 F. Policy changes and revisions. Any and all proposed changes, revisions or additions to the
17 Policy shall be submitted to the Director of Public Safety to the Clerk of the Board of
18 Aldermen and the Chairman of the Public Safety Committee. All proposed changes shall not
19 become effective until they are approved subject to the approval process provided in this
20 section.

21 **SECTION FIVE. Surveillance Technology Use plan.**

22 A. Plan submission. City Entities that desire to use Surveillance Technology must submit a

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1 Surveillance Technology Use plan to the Director of Public Safety for review and receive
2 approval prior to engaging in any of the following:

3 1. Acquiring, using, expanding the use or capacity of, or expending funds for the
4 use of a Surveillance Technology.

5 2. Acquiring, borrowing, or using Surveillance Technology or surveillance data
6 from another person or entity, or providing or sharing City-owned or possessed
7 Surveillance Technology, or the use of any Surveillance Technology or data
8 therefrom.

9 B. Surveillance Technology Use plan. All Surveillance Technology Use plans shall be
10 prepared and submitted to the Director of Public Safety as follows:

11 1. Shall describe the need and justification for the submitted plan, the geographic
12 location(s), by neighborhood or census tract, of proposed deployments and the
13 justifications for those geographic targets and the expected duration of the
14 Surveillance Technology use;

15 2. Shall detail the individual and organizational partnerships involved in using the
16 Surveillance Technology and the nature of any and all partnerships involved,
17 including but not limited to contractual relationships and MOUs;

18 3. Shall detail what measures will be used to avoid biases in data collection and
19 targeting;

20 4. Shall detail where an application of Surveillance Technology requires a
21 warrant;

22 5. Shall detail the rules that will govern the Surveillance Technology's data

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- 1 tracking, data collection, data storage and security, data deletion, and data
2 retrieval, including but not limited to voluntary and mandatory data sharing
3 and confidentiality;
- 4 6. Shall describe the potential adverse impacts of the Surveillance Technology on
5 civil rights and civil liberties and what proactive steps will be taken to avoid
6 such adverse impacts;
- 7 7. Shall ensure and detail how data is not retained beyond its needed usage and
8 shall detail the justification for data retention;
- 9 8. Shall detail how data collected not consistent with the proposed Surveillance
10 Technology Use plan will be identified and destroyed;
- 11 9. Shall detail how access to the data collected will be authorized and monitored
12 and what database will store the data;
- 13 10. Shall list all persons and entities, including local, state and federal partners,
14 with whom data collected from this use of surveillance technology may be
15 shared and detail how data sharing beyond this list shall be prevented;
- 16 11. Shall detail funding source or sources for the plan and the overall expected
17 cost of the proposal, including costs of technology acquisition, operation,
18 maintenance, and data storage; and
- 19 12. Shall address the proposal's chain-of-command, oversight, auditing
20 procedures and compliance measures, including what training procedures will be
21 taken with staff to ensure compliance in accordance with the Revised Code of the
22 City of St. Louis and applicable federal and state laws and regulations;

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1 13. Detail categories of collected data, if any, that would be closed under the
2 Sunshine Law; and

3 14. What limit, if any, will be placed on the quantity of the surveillance
4 technology that will be acquired and used, either in terms of total acquisition cost
5 or total units acquired. C. Submission dates. All City Entities using Surveillance
6 Technology at the time of the effective date of this ordinance shall have one-
7 hundred and eighty (180) days from the
8 effective date of this ordinance to submit their Surveillance Technology Use plans for review
9 and approval and may continue using Surveillance Technology while their Surveillance
10 Technology Use plan is under review.

11 D. Approval by the Director. All Surveillance Technology Use plans or any proposed
12 changes, modifications or additions to plans shall be submitted to the Director of Public
13 Safety, who shall review and ensure their compliance with this ordinance, the Policy, the
14 Revised Code of the City of St. Louis, and applicable federal and state laws and regulations.

15 E. Approval by the Board of Aldermen Public Safety Committee. Once a Surveillance
16 Technology Use plan has been found compliant and approved by the Director of Public
17 Safety, it shall be submitted by the Director of Public Safety to the Public Safety Committee
18 for its approval in accordance with the same hearing process and timetable set forth for the
19 approval of the Policy in this ordinance. All complete and unredacted Surveillance
20 Technology Use plans shall be considered “open records” under the Missouri Sunshine law.
21 All submitted, amended, and approved Surveillance Technology Use plans shall be made
22 publicly available within three (3) days of their submission on the website of the Director of

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1 Public Safety.

2 F. Modification. Modifications to all plans must be submitted to and be approved by the
3 Director of Public Safety. Unless limitations are set forth in the Surveillance Technology Use
4 plan, the acquisition of additional units of Surveillance Technology, or the replacement of
5 existing technology with like-kind units shall not be considered a modification to a plan
6 requiring approval subject to the approval procedures of this ordinance.

7 **SECTION SIX. Annual Reports.**

8 A. City Entities annual report. City Entities using Surveillance Technology pursuant to this
9 ordinance must submit an annual report detailing their use during the preceding calendar year to
10 the Director of Public Safety with a copy to the Clerk of the Board of Aldermen and Chairman
11 of the Public Safety Committee on or before February 28th of each year. Any City
12 Entity's complete and unredacted report shall be considered an "open record" under Missouri
13 Sunshine Law and shall be posted on the Director of Public Safety's website within five (5)
14 days of submission. The report shall be prepared in the following manner:

- 15 1. Shall provide a summary of Surveillance Technology Usage, including but not
16 limited to frequency of usage, numbers deployed, geographic deployment
17 locations by neighborhood or census tract, duration of use, data disclosures,
18 partners who received data access, databases impacted by collected data, and
19 justifications derived legal-based adjudications;
- 20 2. Shall include a breakdown of how many Surveillance Technologies were used
21 in pursuit of a crime, if the crime was violent and assessments of whether
22 surveillance technology was useful in deterring crime;

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- 1 3. Shall include the number of times a warrant was used to access data, how
2 many individuals were covered by said warrant and an estimate of how many
3 individuals were surveilled without a warrant;
- 4 4. Shall include a summary of any complaints received by the City Entity
5 regarding the use of its Surveillance Technology;
- 6 5. Shall include a summary of all Sunshine requests submitted and deposition of
7 those requests;
- 8 6. Shall include a summary of any internal audits taken to assess the use of
9 Surveillance Technology;
- 10 7. Shall detail expenditures deliverables, future funding needs and sources and
11 the Surveillance Technology Use plan's expected continued duration;
- 12 8. Shall analyze the success of the program as measured by a breakdown of
13 arrests or crime reduction in specified geographic areas or investigations into
14 activities or patterns considered to be indicators of potential future
15 involvement in criminal activity;
- 16 9. Shall detail any and all discriminatory, disparate, and other adverse impacts the
17 use of the technology may have had on the public's civil rights and liberties,
18 including but not limited to inadvertent collection of data and any violations of
19 the Policy, this ordinance and those rights guaranteed by the Missouri
20 Constitution and the First, Fourth, and Fourteenth Amendment to the United
21 States Constitution; and

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1 10. Shall detail any recommendations for changes to the Policy and the plan(s) in
2 question.

3 B. Director of Public Safety Annual Report. On or before April 28th of each year the Director of
4 Public Safety shall submit to the Clerk of the Board of Aldermen and Chairman of the
5 Public Safety Committee an annual report on the use of Surveillance Technology in Saint
6 Louis during the previous calendar year. The Director's report shall be a composite report
7 based on the annual Surveillance Technology Use plan reports submitted by the various City
8 Entities. Each report shall:

9 1. Provide an executive summary and assessment of the Surveillance Technology
10 Use plans, including but not limited to a breakdown of plans submitted, plans
11
12 approved and rejected, plans implemented and discontinued and judgement of
13 the corresponding results thereof; and

14 2. Include complete and unredacted copies of all Surveillance Technology Use
15 plans in effect.

16 C. Unredacted Report Made Available. The Director of Public Safety shall provide a
17 complete and unredacted annual report on the Department of Public Safety's website making
18 it available to the public within three (3) business days following its submission to the Clerk
19 of the Board of Aldermen and Chairman of the Public Safety Committee.

20 D. Annual review and public hearing. The Public Safety Committee shall make an annual
21 review of the Director of Public Safety's annual report and its attachments. The Committee
22 shall hold at least one public hearing to receive public input on the annual report. This

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1 hearing shall have a notice of no less than thirty (30) days and shall be at a time and place
2 convenient for the public. The Committee may hold as many Committee hearings as it deems
3 necessary as a part of this annual review.

4 E. Board of Aldermen recommendations. The Board of Aldermen Public Safety Committee may
5 make any recommendations it determines to the Director of Public Safety related to its 20 review
6 of the Director's annual report and attachments. These recommendations shall be
7 made by resolution and can include but are not limited to the continued use of a plan or
8 aspects of the Policy, modifications, or termination of a plan. Recommendations to modify or
9 terminate a Surveillance Technology Use plan or amend the policy shall include reasons.

10 **SECTION SEVEN. Unlawful Use.**

11 A. It shall be unlawful for the City of St. Louis or any City Entity to enter into, or extend any
12 contract or other agreement that conflicts with the provisions of this ordinance. Contracts and
13 agreements, including but not limited to non-disclosure agreements, shall be considered in
14 conflict with this ordinance if in effect or intent they limit the ability of the public to
15 understand the use, capacity, funding, or purpose of a Surveillance Technology. Any
16 conflicting provisions in such contracts or agreements shall be deemed void and legally
17 unenforceable to the extent permitted by law.

18 B. Prohibition of certain contracts. It shall be unlawful for the City of St. Louis or any City
19 Entity to enter into any contract or other agreement that facilitates the receipt of surveillance
20 data or provision of surveillance data in exchange for any monetary or other form of
21 consideration from any source, including the assessment of any additional fees, interest, or
22 surcharges on unpaid fines or debts. Any contracts or agreements signed prior to the

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1 enactment of this ordinance that violate this section shall be terminated as soon as is legally
2 permissible.

3 C. Deletion of data. Surveillance data that has been collected and/or retained in violation of a
4 Technology Use plan or established Surveillance Policy, shall be immediately deleted upon
5 discovery and all copies shall be destroyed and shall not be used in court.

6 **SECTION EIGHT. Right of Appeal.**

7 A. Violations. In the event of an alleged violation of this ordinance, including but not limited
8 to funding, acquiring, or utilizing Surveillance Technology that has not been approved
9 pursuant to this ordinance or utilizing Surveillance Technology in a manner of for a purpose
10 that has not been approved pursuant to this ordinance, any person may submit a complaint in
11 writing to the Public Safety Director for a decision. The Public Safety Director shall have
12 thirty (30) days to evaluate such complaint and render a decision regarding the validity of the
13 complaint and if changes are needed.

14 B. Petitions. Any person jointly or severally aggrieved by any decision of the Public Safety
15 Director pursuant to this section, shall be entitled to petition for review by the circuit court.

16 Upon presentation of the petition, the court may allow a writ of certiorari directed toward the
17 Public Safety Director and prescribe therein the time within which a violation must be
18 addressed and if such complaint constitutes and injury to the complainant.

19 C. Costs. A court shall award costs and reasonable attorneys' fees to the plaintiff who is the
20 prevailing party in an action to enforce this ordinance.

21 **SECTION NINE. Severability.** The provisions of this are severable. If any part of this
22 ordinance, or the application of this ordinance to any person or circumstance, is held invalid,

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1 the remainder of this ordinance, including the application of such part or provisions to other
2 persons or circumstances, shall not be affected by such holding and shall continue to have
3 force and effect.

4 **SECTION TEN. Emergency clause.** This being an ordinance for the preservation of public
5 peace, health and safety, it is hereby declared to be an emergency measure within the
6 meanings of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and
7 therefore shall become effective immediately upon its passage and approval by the Mayor.